



**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

SHIFRA GROSS,  
individually and on behalf of a class,  
)  
Plaintiff,  
)  
v.  
)  
WASHINGTON MUTUAL, INC.,  
WASHINGTON MUTUAL BANK;  
and WASHINGTON MUTUAL BANK fsb,  
)  
Defendants.  
)

# JUDGE CARTER

06 CIV. 4340

**COMPLAINT – CLASS ACTION**

## **INTRODUCTION**

1. Plaintiff Shifra Gross brings this action to secure redress for a course of conduct that included the accessing of a consumer report on plaintiff without plaintiff's consent or any lawful reason, in violation of the Fair Credit Reporting Act, 15 U.S.C. §1681 et seq. ("FCRA").

## **JURISDICTION AND VENUE**

2. This Court has jurisdiction under 28 U.S.C. §§1331 and 1337 and 15 U.S.C. §1681p (“FCRA”).

3.      Venue in this District is proper in that defendant does business in this District.

## **PARTIES**

4. Plaintiff Shifra Gross is an individual who resides in Nassau County, New

**CLASS ALLEGATIONS**

38. This claim is brought on behalf of a class, consisting of (a) all persons with addresses in Nassau County, New York, (b) who were sent material in the exact form represented by Exhibit A, including the dates thereon (c) on or after a date two years prior to the filing of this action and (d) before 20 days after the filing of this action. Persons who responded to the material and obtained credit as a result of such response are excluded.

39. According to Exhibit A, the consumer report of each such individual was accessed.

40. The class is so numerous that joinder of all members is impracticable.

41. Exhibit A is a form document.

42. There are questions of law and fact common to the class, which questions predominate over any questions affecting only individual class members. The predominant common question is whether obtaining a consumer report for the purpose of transmission of the material in Exhibit A violates the FCRA.

43. Plaintiff's claims are typical of the claims of the class members. All are based on the same legal and factual issues.

44. Plaintiff will fairly and adequately represent the members of the class.

Plaintiff has retained counsel experienced in the prosecution of similar claims.

45. A class action is superior for the fair and efficient prosecution of this litigation. Classwide liability is essential to cause defendant to stop its improper conduct. Many class members may be unaware that they have been victims of illegal conduct.

**EXHIBIT A**

Washington Mutual

You're Pre-Qualified!

Visit us online at  
[www.WaMuHomeEquity.com](http://www.WaMuHomeEquity.com) today.

Shifra Gross  
713 Wildwood Rd.  
West Hempstead, NY 11552-3413  
1-866-467-8547

Interest rates as low as

**8.60% APR**

Now, with no annual fee!

Dear Shifra Gross,

Congratulations! You are Pre-Qualified for one of Washington Mutual's lowest interest rates on a home equity line of credit. You deserve a smart financial solution.

The money you already have in your home is a great way to take control of your finances and increase your purchasing power. And you're already Pre-Qualified for a generous credit line of up to \$250,000! You need only call toll-free 1-866-467-8547 or visit us at [www.WaMuHomeEquity.com](http://www.WaMuHomeEquity.com) or stop by your most convenient Washington Mutual Financial Center by June 30, 2006.

**Get one of our lowest rates and tax-advantaged savings!** You'll benefit from a home equity line of credit at one of our best interest rates — as low as Prime Rate plus .85%, currently 8.60% APR. Better yet, the interest you pay may be 100% tax-deductible!

**Reduce your monthly payments!** When you pay off high-interest credit cards with your home equity line of credit, you'll end up with more cash in your pocket every month. You can use the extra cash to take care of repairs, pay college costs or even buy that new car that you have your eye on. What could be better than that?

**No annual fees!** There are no annual fees, no application fees and no points — we'll even pay customary closing costs. It couldn't be easier.

**Fixed rate loan option!** Now you can fix all or a portion of your credit line balance at a great low rate with our fixed rate loan option feature.

Washington Mutual makes it convenient to access your home equity line of credit with traditional checks, or a **WaMu Equity Plus™ Visa® Credit Card.** Use your Visa® card wherever Visa® Credit Cards are accepted. Don't miss out! All it takes is an easy call or visit to your Washington Mutual Financial Center or go online to [www.WaMuHomeEquity.com](http://www.WaMuHomeEquity.com).

[www.WaMuHomeEquity.com](http://www.WaMuHomeEquity.com).

Sincerely,

*Miu Mei*

Miu Mei  
Financial Center Manager

P.S. Hurry! Take control with interest as low as 8.60% APR and no annual fee. To accept, call toll-free 1-866-467-8547 or visit us online at [www.WaMuHomeEquity.com](http://www.WaMuHomeEquity.com) or visit me at your most convenient Washington Mutual Financial Center located at Franklin Square, 654 Franklin Ave, Franklin Square, NY 11010, (516) 568-0695.

For more information on this offer, see the reverse side of this letter.

You can choose to stop receiving "pre-screened" offers of credit from this and other companies by calling toll-free, 1-888-5OPT-OUT or 1-888-567-8688. See PRE-SCREEN & OPT-OUT NOTICE on the reverse side of this letter for more information about pre-screened offers.



### ACCEPTANCE CERTIFICATE

Shifra Gross

is Pre-Qualified for a home equity line of credit at a rate as low as 8.60% APR (Prime Rate plus .85%). But hurry! Your Pre-Qualification expires on June 30, 2006.

You are Pre-Qualified up to: \$250,000  
Confirmation Number: HEM130778687624

Just call toll-free 1-866-467-8547, visit us online at [www.WaMuHomeEquity.com](http://www.WaMuHomeEquity.com) or stop by your most convenient Washington Mutual Financial Center, located at Franklin Square, 654 Franklin Ave Franklin Square, NY 11010, (516) 568-0695.

Washington Mutual has a smart way for you to save interest. And you could save money every single month.

Washington Mutual

Higher-Interest Home Equity Line of Credit

|          |            |
|----------|------------|
| \$27,500 | \$27,500   |
| -\$0     | -\$0       |
| -\$0     | -\$169.59  |
| -\$0     | -\$35.23   |
| -\$0     | \$2,697.84 |

Potential Annual Savings:

XTW-3-MB-0933

**Important things you should know about your Washington Mutual Home Equity Line of Credit.**

1. **Being Pre-Qualified:** Congratulations — you were Pre-Qualified for a credit line up to the amount stated in this letter based on your credit history. However, the amount of your line is limited based on the amount of equity you've built in your home. If you'd like a different line amount, that request is subject to our internal credit policy guidelines.
2. **Securing our lowest rates:** Our great low rate of 8.60% (Prime plus .85%) variable APR is available to our most creditworthy borrowers on lines of \$20,000 to \$250,000 with a loan-to-value of 80% or less. If this isn't the right loan for you, we'll be happy to suggest other plans, though they may have higher rates. Just give us a call for more information.
3. **Calculating your variable rate:** Your variable rate (Prime plus .85%) is based on the Prime Rate, which you can find in *The Wall Street Journal*. As of 04/17/06, the Prime Rate is 7.75%, and the rate for fixed rate loans (with similar criteria for loans between \$100,000 - \$250,000 and terms of up to five years) is 7.54% APR. Other loan terms are available, though they may have higher rates. Your rate will never be less than 3.75% or greater than 18%.
4. **Loans:** The great news is that this line of credit allows you to get both variable rate advances and fixed rate loans. You may open up to two fixed rate loans per year, with a maximum of five outstanding loans at any one time. Of course your first fixed rate loan is FREE! Additional loans have a fee of \$50 to \$250 depending on the loan program.
5. **Cash advances:** When you use your Visa® Credit Card for convenient cash advances there's a fee of 2% or \$2.00, whichever is greater. For variable rate advances of less than \$100 (unless the Visa® Credit Card is used), there's a transaction fee of 4%. Please note that the Visa® Credit Card is not available in CT.
6. **Eligibility:** To accept our offer your home must be a single-family, principal residence (co-ops and manufactured homes are ineligible). Also, your combined loan-to-value, including the amount of your new line, has to be 89.99% or less based on a property inspection or appraisal satisfactory to the Bank. Please note that your line may be further limited by liens against your home.
7. **Out-of-pocket costs:** We'll pay customary closing costs which may include: a credit report, flood certification, collateral valuation, property report and signing and recording services. Customary closing costs do not include wire fees, title insurance premiums, or appraisal fees, if applicable. You'll be responsible for any difference in cost between actual closing costs and costs paid by us, as well as any state taxes. (The typical cost for lines up to \$250,000 is \$0 to \$1,500; cost for lines between \$250,000 and \$500,000 can run from \$300 to \$2,500.) Please note that this offer doesn't apply to lines in first lien position or lines under \$10,000.
8. **Closing requirements:** At closing, we must have a first or second lien position in your principal single-family residence. We'll also need evidence of sufficient hazard insurance coverage (equal to the lesser of 100% guaranteed replacement coverage or the amount of this line plus any prior outstanding liens), and flood or other insurance based on the location of your home. We may also require title insurance.
9. **Potential savings<sup>†</sup>:** Monthly and annual savings will vary by customer. Please see the chart on the reverse side of this letter.

for an example of what you might save. You should know that our chart assumes minimum interest-only payments and buyer-itemized deductions, and the after-tax equivalent is based on a 28% tax bracket (state taxes not reflected). Minimum interest-only payment will not repay the outstanding principal balance on the line. You will be required to pay the entire outstanding balance in a single payment.

10. **Tax advantages:** Remember, the interest you pay may be tax-deductible — please consult your tax advisor for details.

11. **Last but not least:** Other limitations may apply. Washington Mutual Bank accepts loan applications in many states. Washington Mutual Bank fsb accepts loan applications in ID and UT.

**PRE-SCREEN & OPT-OUT NOTICE:** This "pre-screened" offer of credit is based on information in your credit report indicating that you meet certain criteria. This offer is not guaranteed if you do not meet our criteria, including providing acceptable property as collateral. If you do not want to receive pre-screened offers of credit from this and other companies, call the consumer reporting agencies toll-free, 1-888-5OPT-OUT or 1-888-567-8688; or write: Equifax Options, P.O. Box 740123, Atlanta, GA 30374-0123 or Trans Union Corporation, Attention: Marketing, Opt Out, P.O. Box 97328, Jackson, MS 39288-7328.

WEP-Q106NAF

### It's easy to get started!

To accept this offer, please use this checklist to gather the information you'll need.

|  |  |
|--|--|
| <input type="checkbox"/> Social Security Number          | <input type="checkbox"/> Previous address (if you have been at your current address less than 24 months) |
| <input type="checkbox"/> Annual income                   | <input type="checkbox"/> Homeowner's insurance information (agent's name and phone number)               |
| <input type="checkbox"/> Current employer                | <input type="checkbox"/> Driver's license or state-issued identification                                 |
| <input type="checkbox"/> Your property's estimated value |  |

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